

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Paul Blackmer

v.

Civil No. 13-cv-532-LM

Robert McGrath and Sheryl St. Peter

REPORT AND RECOMMENDATION

On January 6, 2014, the court granted plaintiff Paul Blackmer's motion to proceed in forma pauperis in this prisoner civil rights action, pursuant to 28 U.S.C. § 1915(a). See Order (doc. no. 7). It was subsequently brought to the court's attention that Blackmer is subject to the three strikes restriction set forth in 28 U.S.C. § 1915(g). See, e.g., Blackmer v. N.N.H. Corr. Facility Warden, No. 12-cv-342-SM (D.N.H. Sept. 18, 2012) (doc. no. 8), report and recommendation adopted, No. 12-CV-342-SM (D.N.H. Nov. 19, 2012) (doc. no. 15), aff'd sub nom. Blackmer v. Wrenn, No. 13-1059 (1st Cir. Nov. 5, 2013). Under the three strike rule, an in forma pauperis application must be denied unless the filer shows that he is exposed to an "imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Given that Blackmer has not asserted any claim in this case suggesting that he is exposed to an "imminent danger of serious physical injury," his request for in forma pauperis status should have been denied.

Thus, the court will, by separate order, vacate its January 6, 2014, order granting him in forma pauperis status. (doc. no. 7). The undersigned magistrate judge also recommends that the district judge deny Blackmer's in forma pauperis motion (doc. no. 2), and grant him thirty days to pay the filing fee in full or the case will be dismissed. Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to magistrate judge's report are subject to review by district court; issues not preserved by such objection are precluded on appeal).

/s/ Daniel J. Lynch
Daniel J. Lynch
United States Magistrate Judge

January 15, 2014

cc: Paul Blackmer, pro se